

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**MARC GRANO as personal
representative of the WRONGFUL
DEATH ESTATE OF JONATHAN
ANDREW GARCIA and a Next
Friend to J.O.G., A.S.R., An.J.G and
Ar.J.G,**

Plaintiff,

v.

Case No. 1:20-cv-00147-PJK-KK

**STATE OF NEW MEXICO, GREGG
MARCANTEL, New Mexico Secretary of
Corrections, DAVID JABLONSKI, New
Mexico Secretary of Corrections,
CLARENCE OLIVAS, Deputy Warden of
Penitentiary of New Mexico, BRIAN
LUCERO, Corrections Officer, FNU
MARTINEZ, Corrections Officer, FNU
BACA, Captain, Corrections Officer, FNU
WELLS, Sergeant, Corrections Officer,
and JOHN DOES 1 through 5, employees,
staff, agents of Penitentiary of New
Mexico,**

Defendants.

**MOTION TO EXTEND EXPERT WITNESS DISCLOSURE
DEADLINES**

COMES NOW Plaintiffs, by and through their counsel Aequitas Law of New Mexico, (Anna C. Martinez), and hereby move this Honorable Court to extend Expert Witness Disclosure Deadlines in this matter by a period of forty-five (45) days from the date upon which Defendants provide information that they agreed to transmit once a protective order was entered. Plaintiff sought a position by Defendant for this Motion via email on August 18, 2021, but has not received a response. *Exhibit 1*: Email from Anna C. Martinez to Eric Rodriquez, Rodney Gabaldon, Craig Wood, and their support staff, dated 8/18/21. Therefore,

Plaintiff presumes that the instant Motion is opposed. In support of this Motion, Plaintiff state as follows:

1. Plaintiff has been unable to obtain medical records from Christus St. Vincent due to a claimed discrepancy in the medical release signed by Marc Grano. Plaintiff contends that the subpoena for medical records was properly served. Plaintiff intends to file a Motion to enforce compliance with the subpoena served on the hospital shortly. Plaintiff's expert cardiologist needs these records in order to prepare the report required of all experts in this court.

2. In addition, Plaintiff has not received records from Defendants that Plaintiff's expert needs to prepare his report. Pursuant to Defendants' Initial R. 26 disclosures provided on 11/19/20, Defendants were to provide the following relevant documents subject to protective order:

- a) relevant documents;
- b) communication records;
- c) notice of claim;
- d) copies of policies and procedures;
- e) relevant employment records;
- f) medical records;
- g) law enforcement records;
- h) corrections department records; and
- i) investigative documents.

Defendants' disclosures indicated that the documents would be provided electronically to Plaintiff via a secure cloud-based file sharing system once a protective order was issued. On February 19, 2021, co-counsel for Plaintiff sent the attached email to defense counsel requesting that the documents listed above and in Defendants' initial disclosures be forwarded to Plaintiff upon entry of the protective order. Plaintiff has not yet received the documents. *Exhibit 2*: Email from Joseph M. Romero to Eric Rodriguez, Rodney Gabaldon, and support staff, dated 2/19/21.

The protective order proposed by Defendants was entered on February 24, 2021. *See* Order on Motion for Protective Order Doc. 47. Defendants have not yet produced any documents. While all categories of the undisclosed records may provide information that will aid Plaintiff's expert the medical records (f) and the correction department records (h) are critical for Plaintiff's expert's review.

WHEREFORE, Plaintiff requests that the Court extend Plaintiff's expert deadline by forty-five (45) days from the date upon which Defendants disclose the information that it agreed to provide pursuant to the aforementioned protective order. All other terms and conditions set forth in the Order Adopting Joint Status Report and Provisional. Discovery Plan with Changes and Setting Case Management Deadlines [ECF No. 41] shall remain in effect.

Respectfully submitted,
AEQUITAS LAW OF NEW MEXICO, LLC

BY: /s/ Anna C. Martinez
Counsel for Plaintiff
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Attorney for Plaintiff

I certify that a true and correct copy of the foregoing Motion was delivered to all counsel of record via the Court's CM/ECF electronic document filing and delivery service on the date set forth in the court affixed header.

/s/ Anna C. Martinez
Counsel for Plaintiff